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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND
ALL FORMS OF DISCRIMINATION**

Written statement* submitted by the International Human Rights Association of American
Minorities (IHRAAM), a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[9 February 2002]

*This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

I make this statement today as an associate of the International Human Rights Association of American Minorities, (IHRAAM), to raise for your review the issue of ongoing disproportionate incarceration of African Americans by the United States criminal justice system, and in particular the exercise of cruel and internationally illegal forms of punishment against African American juveniles. This continues to be the case, contrary to the non-discrimination articles of both the International Covenant on Civil & Political Rights, and the Convention on the Elimination of All Forms of Racial Discrimination, and despite the fact that the United States is a party to both Conventions.

The racial disparity in the US justice system is unbelievable. Every major civil and human rights organization in America has spoken out against this disproportionate incarceration, including the NAACP, The Urban League, Rev. Jesse Jackson and Rainbow Push Coalition.

This disproportionate incarceration has weighed heavily against African American youth, in particular. In April, 2000, the Building Blocks for Youth initiative released *And Justice For Some: Differential Treatment of Minority Youth in the Justice System*, the most comprehensive report to date on racial disparities in the juvenile justice system. The report, prepared by the National Council on Crime and Delinquency, reveals that youth of color experience more severe treatment than white youth at every stage of the juvenile justice process even when charged with the same offenses – putting them at a “cumulative disadvantage” – throughout the system. The report analyses state and federal data on arrest, referral, detention, case processing, waiver to adult court, and incarceration, building a comprehensive view of the treatment of youth of color in the justice system.

Major findings show:

- African-American youth with no prior admissions were six times more likely to be incarcerated in public facilities than white youth charged with similar offenses. Latino youth were three times more likely than white youth to be incarcerated.
- In every offense category – person, property, drug, public order – a substantially greater percentage of African-American youth were detained than white youth.
- Minority youth are over-represented in the detained population in nearly every state.
- African-American youth are more likely to be formally charged in juvenile court than white youth, even when referred for the same offense.
- Minority youth were much more likely to be waived from juvenile court to adult criminal court than white youth, even when charged with the same offenses. This was true in every offense category.
- Nationally, custody rates were five times greater for African-American youth than for white youth. Custody rates for Latino and Native American youth were two times the custody rate of white youth.
- In 1997, 7,400 new admissions to adult prisons involved youth under the age of 18. Three out of four of these youth were minorities.

In the second Building Blocks for Youth report on the transfer of youth to the adult criminal justice system, the initiative released Youth Crime/Adult Time: Is Justice Served? prepared by Pretrial Services Resource Center in October, 2000. This report is an in-depth analysis of prosecution of youth in adult criminal court in 18 of the largest jurisdictions in the country.

Major findings show:

- Overall, 82% of youth charged in adult criminal courts were minority youth.
- Minority youth were disproportionately charged in adult criminal court. For example, in Jefferson County, Alabama, African-American youth accounted for approximately 3 out of 10 felony arrests, but represented 8 out of 10 felony cases filed in criminal court.
- Minority youths are 8.3 times more likely than white youths to be sentenced by an adult court to imprisonment in a California Youth Authority facility. Also violent nonwhite youth arrestees tried in adult court at least 2 times more than whites. Please note: Black and Asian youths tried in adult court are imprisoned more often--- White-46.5%, Hispanic-40%, Black-75.4%, and Asian-67.2%.
- Nearly two-thirds of all the youth who were detained pretrial were held in adult jails, where previous research shows that youth are at serious risk of assault and suicide.
- White youth are twice as likely as African-American youth to be represented by private retained counsel. Youth who are represented by private retained attorneys were less likely to be convicted and more likely to be transferred back to juvenile court.
- African-American (43%) and Latino (37%) youth were more likely than White youth (26%) to receive a sentence of incarceration (as opposed to a split sentence or probation).

According to The Florida Experiment-by the Justice Policy Institute, reported in 1999, by Vincent Schiraldi and Jason Zidenberg, the most striking feature of Florida's transferred youth population profiles was the extent to which minority youth are over-represented in the ranks of the youth being referred to adult court. One study conducted by the Florida Department of Juvenile Justice found that black youths were 2.3 times more likely than white youth to be transferred in Florida. Even though non-whites account for 24% of the 10-17 age bracket in Florida, they currently represent 74% of those 10-17 held in the Florida prison system. Please note that Florida is leading the United States in the prosecution of youths as adults. Finally, Bishop and Frazier (1990) found that White juvenile offenders received lesser penalties than their non-White peers for similar crimes committed in Florida. The examination of data over 3 years also revealed that disparities exist at critical decision points in the juvenile justice system, including arrest, detention, and commitment. In summary, differential treatment in the juvenile justice system is not explained by factors such as severity of offense.

Raspberry (1991) noted that Minnesota imposes a 4-year sentence for first-time users of crack cocaine but only probation for first-time users of powdered cocaine. Ninety-two percent of those arrested for crack cocaine possessions were African American, whereas 85% of those arrested for possession of powdered cocaine were White. Obviously, this leads to higher arrest rates among African Americans than their White counterparts. In 1990, the U.S. Department of Justice found

that in New Jersey only 10% of White juveniles were adjudicated and sentenced for first-degree crimes, as opposed to 31% of African American juveniles for the same crimes.

In "To prisons or hospitals: Race and referrals in juvenile justice," published in 1991 in the Journal of Health Care for the Poor and Underserved, R. Cohen cited a number of research studies that document racial bias within the mental health system. In his study, the characteristics of youth placed in a psychiatric facility were compared with those of youth placed in a corrections facility. The results showed that both groups had similar scores on the Child Behavior Checklist, but 63% of the youth in corrections settings were Black as compared with 34% in the psychiatric facility. Furthermore, his research indicated that White children sent to corrections facilities showed more serious signs of emotional and behavioral disorders. He speculated that this finding might reflect a higher threshold for admission of White children.

Research conducted in Maryland revealed that Black children are sent to juvenile jails whereas White children with similar mental disorders, offenses, criminal histories, and mental health problems are placed in residential treatment centers. The Maryland Juvenile Justice Coalition specifically noted that in 1998, 120 White juveniles were sentenced to treatment in Maryland's residential centers and 223 White juveniles were jailed. At the same time, 132 Black juveniles received treatment, while 672 were confined with no treatment (Richissin, 1999).

In conclusion, we would like to raise for the Commission's review a new practice directed primarily against American minority juveniles: that of sentencing children to life imprisonment without parole. This represents a particularly ominous increment in the ill-treatment of juveniles by the United States criminal justice system, which we contend will be once again exercised disproportionately against African Americans. In this regard, we wish to cite the cases of Tyrone Mangum, Lionel Tate and Nate Brazill Jr., all 13-15 years old were sentenced as adults with life imprisonment without parole. This is in clear violation of International human rights covenant agreements, particularly Article 10 (2) (b) of the International Covenant on Civil and Political Rights, stating that "Juvenile offenders shall be ... accorded treatment appropriate to their age and legal status."

This egregious new practice follows in the wake of US rulings permitting the execution of juvenile offenders, contrary to recognized and established international norms as expressed in the Second Optional Protocol of the ICCPR. In particular, we wish to remind the Commission of the execution in 2000 of Gary Graham, convicted of an offense committed while still a juvenile, despite an international protest registering concern as to whether Mr. Graham had even been guilty of the offense.

We ask the United Nations Commission on Human Rights and the individual Commission experts to seriously consider whether contemporary U.S. criminal justice policies and practices constitute a pattern of ongoing gross violation of the human rights of African Americans, and seek your assistance in pursuing a remedy.
